

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

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ALAN K. PETERSON,

Cause No. CV 04-157-M-JCL

Petitioner,

vs.

FINDINGS AND RECOMMENDATION  
OF U.S. MAGISTRATE JUDGE

STATE OF MONTANA,  
TWENTY FIRST JUDICIAL DISTRICT  
HON. JUDGE JEFFREY H. LANGTON,  
MIKE MAHONEY, AND THE ATTORNEY  
GENERAL OF THE STATE OF MONTANA,

Respondents.

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Petitioner Alan K. Peterson filed this action on August 12, 2004, seeking a petition for writ of habeas corpus. He was a state prisoner proceeding pro se at the time he filed the case. He now appears to have been released on parole. See CON Network, <http://app.mt.gov/conweb> (updated May 16, 2006).

The Court advised Peterson on four separate occasions that he must immediately inform the Court of any change in his address and that his failure to do so could result in dismissal of his case without notice to him. See Order of Sept. 10, 2004 (doc. 2) at 4,

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¶ 6; Order of Mar. 22, 2005 (doc. 4) at 3; Order of Oct. 6, 2005 (doc. 10) at 2; Order of Oct. 28, 2005 (doc. 12) at 10, ¶ 8.

On June 19, 2006, the Clerk of Court mailed out a notice of assignment, a consent form, and an informational notice to the parties. Peterson's service copy was returned to the Court as undeliverable on June 22, 2006. Peterson has not been in contact with the Court since October 18, 2005.

D. Mont. L.R. 5.4(a) requires parties proceeding pro se to "promptly file with the Court and serve upon all opposing parties a Notice of Change of Address specifying the new address." The Court believes Peterson is now on parole, but his mailing address is still listed as Montana State Prison. The case cannot proceed without a Petitioner. The Court has no way of contacting Peterson. The matter should be dismissed pursuant to D. Mont. L.R. 5.4.

Based on the foregoing, the Court enters the following:

**RECOMMENDATION**

Peterson's Amended Petition (docs. 7, 11) should be DISMISSED WITHOUT PREJUDICE pursuant to D. Mont. L.R. 5.4.

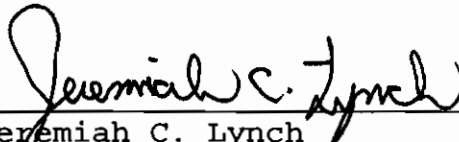
The Clerk of Court shall serve a copy of the Findings and Recommendation of the United States Magistrate Judge upon the Petitioner. Petitioner is advised that, pursuant to 28 U.S.C. § 636, any objections to these findings must be filed or delivered to

prison authorities for mailing within twenty (20) calendar days<sup>1</sup> after the entry date reflected on the Notice of Electronic Filing, or objection is waived.

Peterson must immediately advise the Court and counsel for Respondents of any change in his mailing address.

The Clerk of Court shall serve the Findings and Recommendation on Respondents' counsel and on Peterson at his last known mailing address.

DATED this 21st day of August, 2006.

  
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Jeremiah C. Lynch  
United States Magistrate Judge

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<sup>1</sup> In prisoner cases, this Court extends the time to object to twenty days in order to take into account the Supreme Court's ruling in Houston v. Lack, 487 U.S. 266, 270-71 (1988), and the somewhat greater mailing time that is involved in sending documents into and out of a prison facility.